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OLC 78-0399/139

20 December 1978

Pro/Log

MEMORANDUM FOR THE RECORD

SUBJECT: Intelligence Charter Legislation - Meeting with SSCI Staffers

1. Date, Time and Place: 20 December 1978; 0930-1230 hours;
OLC Conference Room

2. Participants : OLC:

OGC:

DDO:

SSCI: John Elliff
Keith Raffel

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3. This long meeting focused on the collection of foreign intelligence "from" U.S. persons. There appeared to be positive movement on the part of the Committee staffers in several respects:

--Elliff said that he recognized that the distinction attempted in Sections 214 and 219 of S. 2525 between foreign intelligence "concerning" a U.S. person and foreign intelligence "in the possession of" a U.S. person was meaningless and unworkable.

--Elliff said he was not in agreement with the attempt made in one of the Committee's recent working papers to define away the problem by declaring that "foreign intelligence does not include information concerning U.S. persons."

--Elliff distinguished between clandestine collection involving U.S. persons located abroad, and clandestine collection involving U.S. persons in the U.S.

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4. Toward the end of the session, Elliff summed up his thinking on the issue as follows:

--Clandestine collection involving U.S. persons should be permissible abroad, and flexibility in handling such operations should be maintained;

--If intrusive techniques (e.g., electronic surveillance, unconsented searches) were to be employed, however, there would have to be prior high level consultation and accountability.

--Clandestine collection involving U.S. persons in the U.S. probably should not be permitted at all; or, if at all, only with the strictest of controls and high level accountability.


5. The views expressed by Elliff at this meeting were quite different than the position taken by S. 2525, or the position in the Committee's latest paper (its reply to the Working Group's paper on Title II). I am informed by those who have dealt with Elliff from the inception of the Charter Legislation process, however, that his professed reasonableness usually proves to be ephemeral.


Chief, Legislation Staff/OLC

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